



PATENT APPLICATION
DOCKET NO.: 34645-00446USPT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

JAN 21 2003

Technology Center 2600

In re Application of:

Johansson et al.

Serial No.: 09/391,768

Filed: September 8, 1999

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Confirmation Number: 9053

Group Art Unit: 2654

Examiner: Angela A. Armstrong

For: SPEECH CODING WITH COMFORT NOISE VARIABILITY FEATURE FOR
INCREASED FIDELITY

BOX AF
Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service as first class mail on the date indicated below and is addressed to:
Box AF, Commissioner for Patents, Washington, D.C. 20231

Date: January 16, 2003

Signature Marcy Overstreet
Marcy Overstreet

AMENDMENT TRANSMITTAL LETTER

Dear Sir:

This is a transmittal letter in the above-identified application and includes the transmitted herewith attachment(s) of the same date and subject which is/are incorporated hereunto by reference. The signature below is to be treated as the signature to the attachment(s) in absence of a signature thereto.

Transmitted herewith in the above-identified application is/are:

- 1) Transmittal Letter (in duplicate);
- 2) Response to the Final Office Action dated September 11, 2002 and the Advisory Action dated December 31, 2002;
- 3) Check in the amount of \$110.00 for One (1) Month Extension of Time; and
- 4) Acknowledgment Postcard.

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____ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.

____ A verified statement claiming small entity status under 37 CFR 1.9 and 1.27 is enclosed.

____ No additional fee is required.

X The Fee for entering the attached Amendment is calculated below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST # PREVIOUSLY PAID FOR		PRESENT EXTRA		SMALL ENTITY RATE		LARGE ENTITY RATE
TOTAL CLAIMS	12	-	20 (at least 20)	=	0 (at least 0)	x11	= <u>OR</u>	x18	= \$ -0-
INDEP. CLAIMS	7	-	7 (at least 3)	=	0 (at least 0)	x40	= <u>OR</u>	x78	= \$ -0-
FIRST PRESENTATION OF <u>PROPER</u> MULTIPLE DEPENDENT CLAIMS (leave blank if this is a <u>reissue</u> appln)						+130	= <u>OR</u>	+260	= \$ -0-

FEE FOR CLAIM AMENDMENTS \$ -0-

____ SUPPLEMENTAL IDS ATTACHED REQUIRES OFFICIAL FEE - ADD \$240 (RULE 1.97(c)) \$

____ Assignment Recordation Fee (\$40) \$ -0-

____ IF TERMINAL DISCLAIMER attached add Rule 20(d) Official Fee \$ -0-

\$55 (Small Entity)	\$110 (Large Entity)
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X Petition is hereby made under 37 CFR 1.136(a) to extend the original due date to cover the date this response is filed for which the requisite fee is attached:

	Small Entity	Large Entity
One Month	____ \$ 55	<u>X</u> \$110
Two Months	____ \$205	____ \$410
Three Months	____ \$465	____ \$930
Four Month	____ \$725	____ \$1450
ADDITIONAL FEE FOR EXTENDED RESPONSE		<u>\$110.00</u>

Applicant has not been notified that the requested extension will not be permitted. The present application is not involved in an interference declared pursuant to 37 CFR 1.611.

TOTAL FEES \$110.00

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X A check in the amount of \$110.00 for One (1) Month Extension of Time is attached.
Please charge any deficiency or credit any overpayment to Deposit Account No. 10-0447.

____ Please charge my Deposit Account No. 10-0447 in the amount of \$ _____ to cover the
TOTAL FEE. This sheet is attached in duplicate.

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and may be required under 37 CFR 1.16-1.18 (missing or insufficiencies only) now or hereafter relative to this application and for the resulting Official Document under 37 CFR 1.20, OR credit any overpayment to our Deposit Account No. 10-0447, for which purpose a duplicate copy of this sheet is attached.

This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.

Respectfully submitted,

JENKENS & GILCHRIST, P.C.



Dated: January 10, 2003

By: Brian D. Walker
Registration No. 37,751

JENKENS & GILCHRIST, P.C.
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202
Tel: 214/855-4706
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Date: January 10, 2003

Marcy Overstreet
Signature Marcy Overstreet

Dear Sir:

RESPONSE AFTER FINAL

Responsive to the Final Office Action dated September 11, 2002 and the Advisory Action dated December 31, 2002, Applicant provides the following comments. Claims 1-8, 11-19, 21-22, 24-29 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jarvinen in view of Solve. Applicant respectfully traverses. Claim 1 recites "calculating, at the speech decoder, variability information indicative of variability of a background noise parameter, wherein said calculation step includes the speech decoder obtaining the variability information independently of the communication channel." No discussion is provided within the Official

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Action with respect to the limitation of calculating variability information . . . wherein said calculation step includes the speech decoder obtaining the variability information independently of the communication channel. There is no discussion of this limitation with respect to the Jarvinen or Solve references or the combination thereof.

Furthermore, Applicant does not agree that the combination of Jarvinen and Solve discloses Applicant's step of perturbing the comfort noise parameter values in response to the variability information to produce modified comfort noise values at the speech decoder. The Official Action admits that the Jarvinen reference does not teach using noise variability to perturb comfort noise parameters. The Official Action then recites Solve as teaching noise variability information to modify signals. However, Applicant does not claim using noise variability information to modify signals. Applicant claims in response to the variability information, perturbing the comfort noise parameter values to produce modified comfort noise parameter values. The Official Action has admitted that Jarvinen does not describe using variability information to perturb comfort noise parameter values. Solve describes variably attenuating a current based upon background noise. None of the reference describes perturbing comfort noise parameter values in response to variability information. Applicant respectfully submits that since neither of the recited references recite the step of perturbing the comfort noise parameter values in response to variability information. Since neither reference discloses the limitation the combination thereof may not disclose the limitation. Therefore, a Notice of Allowance for Claim 1, and all claims dependent therefrom, is respectfully requested.

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Claim 17 recites a "modifier . . . responsive to the variability information of the background noise parameter for perturbing the comfort noise parameter values to produce perturbed comfort noise parameter values." As described previously, with respect to Claim 1, the Official Action has admitted the Jarvinen reference does not disclose this limitation. Furthermore, the Solve reference, while describing variably attenuating current based upon background noise, provides no description of perturbing comfort noise parameter values responsive to variability information. Thus, neither reference nor the combination thereof discloses perturbing comfort noise parameter values responsive to variability information. Therefore, the Applicant respectfully submits that Claim 17, and all claims dependent therefrom, are distinguishable from the art of record and a Notice of Allowance is respectfully requested.

In view of the foregoing amendments and comments, the Applicant respectfully submits that all pending claims are distinguishable over the art of record and a Notice of Allowance is respectfully requested.

Respectfully submitted,

Date: January 10, 2003

By: 

Brian D. Walker
Reg. No. 37,751

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